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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,747	12/08/2003	Lynn Robie	22779.01	9316

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EXAMINER
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SANTOS, ROBERT G

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 08/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/728,747

Applicant(s)

ROBIE, LYNN

Examiner

Robert G. Santos

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12082003</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Objections***

Claims 1, 3, 5, 8 and 9 are objected to because of the following informalities:

- 1) In claim 1, line 4: The phrase --at least one-- should be inserted before the second instance of the term "pocket".
- 2) In claim 1, line 6; claim 3, lines 2 & 6; claim 5, line 2; and in claim 8, line 3: The phrase --at least one-- should be inserted before the term "pocket".
- 3) In claim 3, line 5: The phrase --at least one-- should be inserted before both instances of the term "prayer".
- 4) In claim 9, line 2: The term --said-- should be inserted before the term "at".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6 and 15 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Kinchen et al. '713 (note especially Figure 2; page 1, paragraph 13; page 2, paragraph 18; page 4, paragraphs 54, 55 & 59 ; and page 5, paragraph 73).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kinchen et al. '713 in view of Mack et al. '972. Kinchen et al. '713 do not specifically disclose the use of an overlapping pair of pockets. Mack et al. '972 provides the basic teaching of a bedside article carrying device (10) comprising an overlapping pair of pockets (19). The skilled artisan would have found it obvious at the time the invention was made to provide the prayer aid of Kinchen et al. '713 with an overlapping pair of pockets in order to provide a simple alternative pocket configuration for holding at least one prayer card as desired.

Claims 8-10, 12, 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kinchen et al. '713. As concerns claims 8, 9 and 16, Kinchen et al. '713 do not specifically disclose a condition wherein the at least one pocket (54, 56, 58) is defined between a fabric ornamental design and the outer cover (20). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the prayer aid of Kinchen et al. '713 with a pocket defined between the outer cover and a fabric ornamental design affixed thereto, since the attachment of a piece of fabric sheet material of a given size and shape to the outer

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cover of a support device such that a pocket were defined therebetween would have been generally recognized as being within the level of ordinary skill in the art.

With regards to claims 10, 12 and 14, Kinchen et al. '713 also do not specifically disclose conditions wherein the outer cover (20) resembles a shirt or a bear paw and wherein the at least one pocket (54, 56, 58) resembles a shirt breast pocket and seam pocket or a plurality of toe pads with a sole pad. It would have been an obvious matter of design choice to modify the outer cover of Kinchen et al. '713 such that it resembled a shirt or bear paw and such that the pockets of Kinchen et al. '713 resembled a shirt breast pocket and a seam pocket or a plurality of toe pads with a sole pad since a mere change in the size or shape of a component is generally recognized as being within the level of ordinary skill in the art.

Claims 11, 13 and 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kinchen et al. '713 in view of Lemke '297. Kinchen et al. '713 do not specifically disclose a condition wherein the casing further comprises an inner lining having a pocket defined therein. Lemke '297 provides the basic teaching of a support device (10) comprising an outer cover (11) including an inner lining having a pocket (24) defined therein. The skilled artisan would have found it obvious at the time the invention was made to provide the prayer aid of Kinchen et al. '713 with a casing further comprising an inner lining having a pocket defined therein in order to provide a simple additional means for holding or concealing at least one prayer card as desired.

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***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Crear '537, Koenig '769, Nelson '601, McNeal '962, Yager et al. '362, Marxhausen '879 and Smallwood '340.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert G. Santos whose telephone number is (703) 308-7469. The examiner can normally be reached on Tues-Fr and first Mondays, 10:30 a.m. to 8:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robert G. Santos  
Primary Examiner  
Art Unit 3673

R.S.  
August 6, 2004